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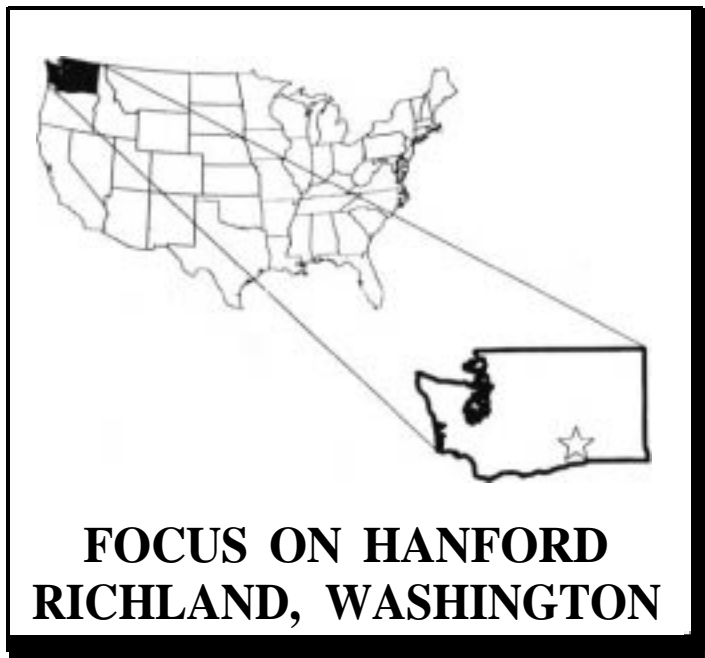
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DOE ENVIRONMENTAL ISSUES BULLETIN

APRIL-MAY 1994

OVERVIEW OF DOE'S HANFORD FACILITY



When the Hanford Site in southeastern Washington was selected to become the home of the first, full-scale plutonium production plant in the world in 1943, its original mission was to produce plutonium for a new weapon that would bring about a swift end to World War II. Hanford was selected in part because of its remoteness, proximity to railroads, availability of an abundant water source for reactor cooling, and plentiful electricity from hydroelectric dams.

In 1943, prior to construction of the facility, approximately 1,500 residents of the area were evacuated from over 640 square miles of land. As construction began, the population of the area increased to over 51,000. Within 28 months after construction started, Hanford produced the plutonium that provided the material for the world's first nuclear detonation in New Mexico.

As government demand for plutonium continued after World War II, a total of nine plutonium reactors were in full operation at Hanford by 1964. The complex also housed facilities for fuel fabrication, chemical processing, waste management and research. By the early 1970s, the Hanford Site began to devote increasing amounts of research time and facilities to exploring peaceful uses of nuclear power. During this era, the last weapons-only reactors were shut down. Only one multi-purpose reactor remained active until 1988, when it was shut down.

The primary focus of the Hanford Site today is environmental restoration. In 1989, the U.S. Department of Energy (DOE), the Washington State Department of Ecology, and the U.S. Environmental Protection Agency (EPA) signed the historic Hanford Federal Facility

EDITOR'S CORNER

Beginning with this issue, each edition of the *DOE Environmental Issues Bulletin* will be highlighting a different DOE facility. This month's focus is DOE's Hanford facility in Richland, Washington. Please call me at 202-434-8062 with any comments or suggestions you have concerning this new approach,

-- Wib Chesser

Agreement/Consent Order (HFFACO). The HFFACO outlines a plan for environmental restoration over the next 34 years. As part of this agreement, DOE has met most milestones on or ahead of schedule. The most recent amended version became effective in January 1994.

This amendment reflects the enforcement authority granted the State of Washington and EPA by the passage of the Federal Facility Compliance Act (see the January 1994 issue of *DOE Environmental Issues Bulletin* for more information on DOE's handling of the Federal Facility Compliance Act). This authority provides the State of Washington and EPA with similar enforcement powers at Hanford to those they have at non-federal sites. The parties also agreed to provisions that will shorten the time required for the resolution of disputes raised under the HFFACO. Automatic schedule extensions during the dispute resolution phase will be greatly restricted to speed decision-making and eliminate unnecessary delays in cleanup activities.

The amendment also addresses the expanded role of the State of Washington and EPA in planning cleanup work, setting priorities, and participating in the development of the Hanford cleanup budget. Monthly project reports from DOE and expanded public involvement with the development of work plans and priorities have been built into the revised HFFACO to ensure efficient use of resources and to foster early resolution of funding-related issues. In addition, funding of the State of Washington's oversight activities through a mixed-waste fee and grants from DOE will continue under the HFFACO.

Ultimately, through these modifications, stakeholders in the Hanford area will have a larger role in the decision-making process which establishes the Department's long-term remediation strategies and budgets.

INNOVATIVE ASPECTS OF THE NEW HANFORD AGREEMENT

by Tanya Barnett

Office of the Attorney General of Washington

The January 1994 amendments to the Hanford compliance agreement have greatly increased the ability of regulators and of the public to track DOE's work and budget planning efforts, as well as progress made in achieving milestones. These amendments derive, in part, from recommendations made in the Interim Report of The Federal Facilities Environmental Restoration Dialogue

Committee (February 1993), also known as the Keystone report.

Provisions of the Original HFFACO

DOE, EPA, and the State of Washington first signed the Hanford Federal Facility Agreement and Consent Order (HFFACO) in May 1989. The HFFACO serves as both a § 120 agreement under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and as a consent order addressing DOE's hazardous waste management responsibilities at Hanford.

As originally drafted, the HFFACO required DOE to seek funding to meet all of its obligations under the HFFACO. While EPA and Washington were allowed to "assist" DOE in determining the level of funding necessary to fulfill its HFFACO commitments, the regulators had no further involvement in the DOE budget process. Washington did, however, reserve the right to take action against DOE if appropriated funds were not available to fulfill obligations under the HFFACO.

The original HFFACO also required quarterly meetings and reports to discuss progress made at the site, in addition to anticipated problems in meeting future milestones. Each report, however, addressed only one-third of all milestones for which work was underway. Furthermore, the quarterly reports arrived 45 days after the end of the quarter.

Revisions Made to the HFFACO

The State of Washington sought changes in the HFFACO that would give it more detailed and more timely information about work being performed and planned by DOE. Since DOE's ability to meet milestones is dictated, at least in part, by the level of funding it receives, Washington also sought greater involvement in the processes that DOE follows in making internal funding decisions and when formally requesting money from Congress.

The state needed this information for several reasons. First, it would give the state early warning if DOE failed to plan or request funding for work that should, according to HFFACO schedules, be under way. Second, it would enable Washington to suggest ways in which DOE could comply with its obligations more cheaply. Third, an understanding of this information would allow the state to discuss reprioritization of work required by the HFFACO, if Congress appropriated insufficient funds for DOE to perform all agreed-upon work.

Early discussions between the parties focused on the constraints imposed on DOE by Office of Management and Budget (OMB) Circular A-11 and the doctrine of executive privilege, upon which portions of the circular are based. The circular prohibits the dissemination of any executive branch communications concerning the nature and amounts of the President's budget, at least until after the President submits the budget to Congress. DOE has interpreted the circular as preventing it from giving regulators greater access to the budget development progress. Courts have also ruled that records concerning federal agencies' budget recommendations are exempt from disclosure under the Freedom of Information Act because they are predecisional.¹

During recent HFFACO negotiations, however, DOE agreed to share with the regulators much of the information it receives and generates in the budget process. In exchange, Washington agreed to maintain the confidentiality of the documents provided until after Congress received the President's budget, unless DOE authorizes release of or is required by court order to release the documents. Washington agreed to this only after careful consideration of its state public records law, which requires state agencies to release, upon request, most records in the agencies' custody.

In the amendments to the HFFACO, DOE's Richland office agreed to provide the regulators with copies of the planning and budget guidance it receives from its headquarters, as well as the budget guidance that the Richland office provides to its contractors. These guidance documents set forth certain assumptions and restrictions to follow during the development of a budget request. In some cases, the guidance instructs the Department to prepare a compliance funding case, in addition to or in lieu of a target funding case: the former is a budget scenario that would enable the Department to meet all of its obligations, while the latter is a budget scenario based on Administration policies. The target funding case may not ensure compliance with DOE's commitments.

The Washington state regulators are allowed to review, comment, and make recommendations on the Richland office's budget request prior to submittal to headquarters. The submittal must include any comments not resolved to the satisfaction of the regulators. Regardless of the guidance received from OMB, the submittal also must include a compliance funding case, as required by Executive Order 12088.

DOE has also agreed in the HFFACO amendments to brief the regulators on the funding case required for compliance, and on the budget actually passed by Congress. At these briefings DOE is to identify those areas in which funding may be inadequate to accomplish work required under the HFFACO. After the congressional budget is passed, the regulators will be given the opportunity to suggest reallocation of available funds.

All parties recognized that as the costs of environmental compliance escalate, future funding might not be sufficient for DOE to perform all necessary work. Should there be a funding shortfall, the parties will attempt to reach agreement on adjustments in the scope of work under the HFFACO. Since the parties may not reach agreement, however, Washington retained its right to take appropriate action to require compliance with the terms of the HFFACO. DOE and Washington agreed that any arguments concerning the effect of the Anti-Deficiency Act² on DOE's failure to comply with the HFFACO would be raised, and litigated if necessary, only if Washington took such action.

In addition to allowing Washington greater involvement in the budget formulation process, DOE agreed to provide the regulators with copies of the pertinent work and funding plans and internal management reports that it and its contractors prepare. The management reports measure performance in terms of funds spent and progress achieved, and must identify current or anticipated delays. These monthly reports track progress on all HFFACO milestones for which work has begun. To ensure that the reports will honestly portray progress being made to accomplish these milestones, the program manager must sign each report. His or her signature confirms that the information contained in the report is complete and accurate.

The parties to the HFFACO agreed that the public should be given access to much of the information now being provided to the regulators. Management reports will be available in designated public information repositories. Details of the process for informing the public of other DOE planning and performance tracking efforts are to be worked out in the HFFACO Community Relations Plan.

¹See, e.g., *Bureau of National Affairs v. United States Department of Justice*, 742 F.2d 1484 (DC. Cir. 1984).

²The Anti-Deficiency Act, 31 U.S.C. §§1341, 1349-51, 1511-19 (1982), prevents federal officials from creating obligations of expenditures in excess of appropriations, consistent with Congress' power over spending by the Executive Branch. Compliance with the Act has been raised as a concern by federal facilities in meeting environmental compliance costs and penalties.

MENTORING PROGRAM AT THE HANFORD TANK FARMS

by Melanie Pearson

DOE's Office of Environmental Compliance

In 1993, President Clinton signed Executive Order 12862 mandating the establishment of customer service standards as part of the overall initiatives to improve and reinvent government. The Secretary of Energy, Hazel R. O'Leary, has determined that this focus on identifying and meeting the needs of customers is central to DOE's implementation of "A Customer Focus Initiative." One of the Department's initiatives to this end has been the development of "mentoring" programs.

Background

The Hanford Site, in Richland, Washington, has shifted from a nuclear weapons 'production facility to an environmental restoration site. To support these changes in a positive, proactive manner, the Hanford Tank Farm Mentoring Program was established in 1993. The mission of this initiative is to provide one-on-one guidance from DOE Headquarters personnel to DOE and Westinghouse personnel at the Tank Farms to transfer knowledge of successful DOE and industry practices to activities at Hanford. This customer-oriented approach is designed to improve overall compliance with Environment, Safety and Health (ES&H) requirements. DOE's Office of Environment, Safety and Health initiated this program in response to a series of events that indicated weaknesses in the ongoing ES&H programs.

Structure

The Mentor Program Team consists of a Team Manager, Deputy Team Manager and Mentor Team Members, representing DOE's Office of Nuclear Safety, Office of Environment, Office of Safety and Quality Assurance, Office of Health, and Office of Nuclear Safety Policy and Standards, along with support contractor experts. There are corresponding Hanford counterparts for each Team Leader. Each mentor member must recognize that his/her counterpart(s) are customers. Working cooperatively with the customer to identify and meet each customer's unique individual needs to achieve near and long term improvements in ES&H performance within the Tank Farm is the ultimate goal of this effort. Mentors are responsible for maintaining their focus on providing assistance, not assuming line management responsibilities.

Each Mentor and his/her counterpart(s) are responsible for developing a detailed plan to define the scope of activities that will support their common objective. This plan establishes the resources that will be committed, deliverables, schedules and the criteria for determining when mentor support is no longer needed. Both the Mentor Team Leader and the counterpart approve the plan to establish a "contract" between the team and the customer.

The structure encourages interaction among all parties to ensure that customer needs are met, that knowledge and expertise are exchanged, and most importantly, that lessons learned are documented to enhance the effectiveness of future mentorship programs elsewhere within the DOE complex.

Based on several early successes, management at the Tank Farms has requested expansion of some mentoring activities site-wide at Hanford. Interest has also been expressed by other DOE sites.

Performance Measures

As with any successful program, the Mentoring Program has developed performance measures to ensure that it achieves its objectives. Such measures will assist the team in identifying and eliminating problems, ensuring program goals are met, and ultimately, achieving customer satisfaction. Examples of performance measures for the Hanford Tank Farm program include customer feedback on the mentor program and an upward trend in ES&H performance indicators such as a reduction in non-compliances.

Lessons Learned

To ensure the continued development of mentoring programs across the Department, a Lessons Learned program has been developed that will document evaluations made by both the Mentoring Team and the customers. In addition, information on successful implementation of mentoring programs and techniques that have made a positive behavioral change and improved the ES&H culture at the facility will be distributed throughout DOE.

For additional information on the Hanford Mentoring Program contact Steven Woodbury, Office of Environmental Compliance, at 202-586-4371.

NEWS BRIEFS

Unless otherwise indicated, please call DOE News Media contact Amber Jones at 202-586-5819 or Wib Chesser of NAAG at 202-434-8062 for further information on News Briefs.

- *EPA Issues Exposure Standards for High-Level Waste.* On December 20, 1993, the Environmental Protection Agency (EPA) issued final rules governing disposal of spent nuclear fuel (SNF), high-level radioactive waste, and transuranic waste. These standards, which were required as a prerequisite to operation of the Waste Isolation Pilot Plant (WIPP) in New Mexico, must be protective for 10,000 years. For more information, contact Raymond L. Clark of EPA at 202-233-9198.
- *Rocky Flats To Serve as First Economic Conversion Project.* DOE announced on December 21, 1993, that Rocky Flats in Colorado has been selected for the Department's first economic conversion of a facility. The project will include three phases, covering evaluation, conversion of buildings, and eventual production of waste containers and other products. Currently, phase one has been funded for \$1 million. This project involves the conversion of contaminated scrap metal for manufacture of waste containers. The DOE point of contact at the Rocky Flats facility is Mark Vander Puy at 303-966-2473.
- *National Research Council Issues DOE Risk Assessment Report.* On January 4, 1994, the National Research Council issued a report, titled *Building Consensus Through Risk Assessment and Management of DOE's Environmental Remediation Program*, in which the Council found that risk assessment can be an effective element in DOE's evaluation of cleanup alternatives. For copies of the report, contact National Academy Press at 800-624-6242.
- *DOE To Fund Community Impact Project at Pinellas.* On January 11, 1994, DOE announced approval of a \$1 million economic development project for its Pinellas plant near Largo, Florida. The project is part of DOE's commitment to assist communities affected by the close of Department facilities.
- *Amendment to HFFACO Signed.* In January 1994, DOE, EPA, and the State of Washington released the Fourth Amendment to the Hanford Federal Facility Agreement and Consent Order (HFFACO), a tri-party agreement governing cleanup of radioactive waste at the DOE facility near Richland, Washington. A primary focus of the agreement are the underground storage tanks containing mixed high-level radioactive waste at the site.
- *DOE PEIS Implementation Plan Available.* On February 17, 1994, DOE announced the availability of its implementation plan for the Programmatic Environmental Impact Statement (PEIS) for the environmental restoration and waste management program. The plan may be obtained by calling 800-379-5441.
- *CAA Radionuclide Rules Still in Effect.* EPA announced January 28 that Clean Air Act (CAA) radionuclide standards will remain in effect until further action is taken to rescind those rules for facilities regulated by NRC. For more information, contact David P. O'Very, EPA, at 202-233-9762.
- *Financial Review for Yucca Mountain Project To Be Conducted.* DOE announced January 27, 1994, that a two-person independent panel will conduct a financial review of the Yucca Mountain site characterization project. Under the requirements of the Nuclear Waste Policy Amendments Act of 1987, Yucca Mountain is currently being studied as the potential site for permanent underground disposal of high-level radioactive waste. For more information, contact Joanne Johnson of DOE at 202-586-5806.

NEWS BRIEFS (cont'd)

- *Supreme Court Refuses To Review State Role in Cleanups of Federal Facilities.* On January 24, 1994, the U.S. Supreme Court declined to review a holding that state hazardous waste management standards apply to federal facilities on the Superfund National Priorities List (NPL). The decision allows Colorado to regulate a portion of the Rocky Mountain Arsenal, a Department of Defense facility.
- *Mescalero Apache Tribe To Store SNE* The Mescalero Apache tribe of New Mexico tentatively agreed on February 3, 1994, to contract with Northern States Power Company to store commercially generated spent nuclear fuel (SNF) in a monitored retrievable storage (MRS) facility on its reservation.
- *EPA Proposes Procedures for Challenging CAA Uranium Mill Tailings Standards.* On February 7, 1994, EPA proposed procedures for challenging its decision to rescind air emission standards for uranium mill tailings disposal sites. This proposal supplements a December 31, 1991, proposal by EPA that EPA rescind its standards because they are duplicative of Nuclear Regulatory Commission (NRC) requirements. In the 1991 proposal, EPA had provided options for reconsidering the rescission. For more information, contact Gale C. Bonanno of EPA at 202-233-9219.
- *DOE FY 1995 Budget Announced.* On February 7, 1994, Secretary of Energy Hazel R. O'Leary released the Department's annual budget request. The request totals approximately \$18.5 billion, including \$6.3 billion for environmental management programs.
- *Final Draft of DOE Future Land Use Document Available.* On February 14, 1994, DOE's Office of Environmental Restoration and Waste Management announced the availability of the final draft of its future land use document, titled *Forging the Missing Link: A Resource Document for identifying Future Use Options*. For more information, contact Randall J. Harris of DOE at 301-903-g 199.
- *Rocky Flats Settlement Contains Stipulated Penalties Provisions.* A settlement approved by the U.S. District Court for the District of Colorado on February 17, 1994, between the State of Colorado and DOE contains stipulated penalty provisions, as authorized under the Federal Facilities Compliance Act. Rocky Flats was cited for failure to obtain a RCRA Part B permit for mixed residues. The settlement established a six-month schedule for DOE to expedite the permitting process by submitting additional information related to mixed waste storage.
- *Nevada Files Suit Against DOE.* On April 4, 1994, the Office of the Attorney General of the State of Nevada filed suit against DOE challenging DOE's activities at Yucca Mountain. The challenge focuses on DOE's site characterization activities, which are required under the Nuclear Waste Policy Amendments Act of 1987, and in particular questions the studies of the source of certain mineral deposits at the site. For more information, contact Harry Swainston of the Nevada Office of the Attorney General at 702-687-5866.

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